RIDDLES THE ACT.

Root Holds Barge Canal Illegality Up to the Light.

AGAINST THE CONSTITUTION

No Limit to the Hundreds of Millions That Could Be Spent.

vent the Contemplated Great Swindle,

ALBANY, Feb S - Five distinct ways in hich the notorious barge canal act violates limitations of the Constitution were made plain to-day by the Hon. Elihu Root at the Attorney-General's hearing on the application to test the constitutionality of

The former Secretary of War showed that the act violates the constitutional provisions relative to debt and expenditure. that it is illegal because it does not impose a tax sufficient to pay the interest and principal of the \$101,000,000 of bonds which it authorizes to be issued and sold; that it violates the provision that private property shall not be taken for public use without fust compensation; that it violates the ection prohibiting the sale or other disposition of the canals, and that there was titutional authority for submitting the law to the people as it was submitted.

Mr. Root appeared with the Hon. Charles Andrews, former Chief Judge of the Court of Appeals, as counsel for James Wood and others, the applicants who had already retitioned Attorney-General Mayer to bring the suit or allow it to be brought. The petition represented the State granges and business men throughout the State. The barge canal forces were represented by Attorneys John G. Milburn and Abel E. Blackmar of New York and George Clinton of Buffalo. State Engineer Van A'styne and Edward A. Bond, president of he large canal engineers' advisory board, with the Attorney-General.

Mr. Root, whose argument opened the the canal act and pointed out that no limit was imposed upon the cost of the work required to be done or the extent of the obligations which may be incurred in the name of the State.

The issue is limited to \$101,000,000, but improvement which the statute comnds the State officers to make may cost \$200,000,000 or \$300,000,000 or \$500,000,000. he State officers are not limited to the penditure of the means provided, they required to do the work and to impose on the State contract obligations to pay r the work, no matter what it costs and thout any reference whatever to the macy of the means provided for pay-

Mr. Root argued that the cost of such a emendous work cannot be accurately esmated in advance. The draftsman of the tatute, having to choose between an exenditure limited to the means provided or tract obligations sufficient to do the work. to matter what the cost, had chosen the atter course. He showed that the State authorities are required by the act to borrow noney at a rate (3 per cent.) which is less than the ordinary rates at which foreign nations and other States of the Union are able to borrow; less than the rate at which the city of New York is able to borrow; less than the rate now realized upon the principal investment securities of the

we are bound. The said, to contemplate the possibility that at any time the offer of the unsold 3 per cent, bonds will bring no bidders at par or above par. In that case the obligations of the State incurred for the improvement, which will continually call for payment whether the bonds are sold or not, will find the State without means to meet them."

Mr. Root quoted several paragraphs
of Article VII. of the Constitution limiting

the rights of the Legislature in canal exaditures to definite amounts.

The general scheme of these limitations

is plain; it is to prevent the imposition of future burdens upon the people by the incurring of obligations and the postponing of provisions for payment. On two previou coasions the Legislature has endeavored o evade these provisions in its dealing with the canals. In both instances the courts declared the acts of the Legislature

of these instances occurred in the method of authorizing "new work and extraordinary repairs" on the canals, making appropriations without providing any means of payment. Chapter 700 of the laws of 1872, which was approved by the people in the election of that year, provided for the creation of a debt to satisfy these supposed liabilities. appeals declared that the liabilities were appears declared that the habilities were themselves in violation of the Constitution, as being debts created without compliance with the provisions of that instrument. Root quoted from that decision as

But the whole theory of the act is entirely subversive of the Constitution. It proceeds upon the assumption that a State debt created and exist outside of on, either by act of the Legislacers and agents of the State: totwithstanding the stringent provis-f the organic law of the State, exbe authorized and liabilities advance and in excess of money slich must be met either by n or by borrowing. If no there was no necessity for oney. The future expendinoney. The future expensions state were within the control state were within the control within ature, and could not, within ion, exceed the means pro-as a debt might be created, \$1,000,000 in amount, to meet provided for. To this extent loan could be made. (Const.,

\$6,000,000, or liabilities to that realing as a burden upon the ing from the acts of the Legisla-agents and officers of the State, ibility, for the reason that it is obthibled; and any attempt to lebt or incur such liability is a recan be no floating debt under onellution; neither can a debt. The light appropriations and making appropriations and enditures in excess of taxes neans provided. Could the build the intent of the people be thus easily circumvented it that instrument would be of The fallacy that there is or ting debt, or a debt created. ing debt, or a debt created appropriations and scanty tax

Preumenia and Grip Follow the Snow.

levies, lies at the foundation of this act and all the kindred schemes for borrow-ing money under the pretence of relieving the Treasury and preserving the credit of the State. Neither the Legislature nor the officers and agents of the State, or all com-bined, can create a debt or incur an obliga-tion for or in behalf of the State, except to the amount and in the manner provided

or in the Constitution.
"The objects and purposes to which the moneys in the Treasury shall be appropriated, or for which taxes shall be levied, are very much, if not entirely, in the discretion of the Legislature. The Legiscretion of the Legislature. The Legislature has entire control over the revenues of the State, whether derived from annual taxation or other sources, except as such moneys are pledged or appropriated by the Constitution. Such control is exercised by means of statutes making annual appropriations, that is, by acts declaring to propriations, that is, by acts declaring to what purposes and in what amounts the moneys of the State shall be applied. The acts of the Legislature in making these appropriations are supreme to the limit of the funds and moneys at their disposal, but nullities in excess of that amount. The credit of the State is beyond its control

"A pauper dying may, in form, bequeath millions, but his legatees will be none the richer, and those who come after him will be under no obligation to make good his bequests from their enemies. So the Legis-ature can effectually dispose of the moneys of the State from year to year, but appro-priations in excess of such moneys impose no liability upon the people or obligations upon successive Legislatures to provide the means for their payment. The ad-ministrative officers of the State cannot give effect to them either by borrowing money or incurring liabilities in other forms, for the passes that the Constitution stands for the reason that the Constitution stands as an insuperable barrier to any debt to be

Mr. Root said that the principles de-Mr. Root said that the principles de-clared in the decisions he quoted led to the conclusion that the present statute violated the Constitution by undertaking to improve the canals without providing for defraying the entire cost and by not limiting the amount of bonds which may be soid or making complete provision for their pay-ment. These would constitute a burden upon the future of the State and would be debts and liabilities which the Legis-lature has no authority to incur. The Court of Appeals, said Mr. Root, has stated in various forms the general

has stated in various forms the general principle which is to be followed in testing the validity of the act. One decision said:

the validity of the act. One decision said:

"It is not enough, to render a law constitutional, that its language should be in such form as to comply with the requirements of the Constitution, but it must comply with them in substance.":

One of Mr. Root's strongest points was based on section s of Article VII. of the Constitution, which prohibits the sale or other disposition of the canals. He showed, by the plans of the barge canal, that it is proposed to abandon three-quarters of the present Eric Canal.

"The new waterway," said Mr. Root,

ers of the present Eric Canal.

"The new waterway," said Mr. Root,
"will be incapable of being used by boats
towed or propelled from the shore; it will
be no canal at all. It is of no avail for
the statute to talk about this being 'an
improvement of the canals' or to talk about
the 'canalization of the rivers.' The plain
and simple fact is that the canal is to be and simple fact is that the canal is to be abandoned and we are to resort to steam navigation upon the rivers of the State, improved by a system of locks and dams make what is called 'slack water naviga-

Mr. Root recalled that the Hamburg Canal in Buffalo was abandoned only after the recommendation of the Constitutional convention of 1894 had been approved by

the people.
"It would somewhat have surprised the amended the Constitution to permit three miles of the canal to be abandoned, to find the Legislature authorizing the abandon-ment and sale of 330 miles without regarding

the Constitution an obstacle.
"It may be said that the abandonment of these canals is not in effect an abandonment because the new system of naviga-tion to be created will answer the purpose for which the canals were designed. A sufficient answer is that the Legislature has not been invested with power to de-termine that question. The people of the termine that question. The people of the State have themselves, by their constitution, declared that their purpose should be at-tained by the preservation of these present canals and it is not within the power of the ature to substitute any other means taining that purpose. If other means or attaining that purpose. If other means senator Burrows looked over the formid-senator Burrows looked over the formid-able document handed to him by a clerk

upon to pass laws except under the express direction of the Constitution." Nor did the question submitted to the people suggest unlimited liability or any abandonment of

existing canals.

Mr. Root said in conclusion: "Citizens whose interests are in com-mon with all the other people of the State cannot themselves present these questions to the courts because, in common all the people, they are represented by the Attorney-General. The general interest in such questions can be asserted only in the general name of the People of the State, and the Attorney-General alone can authorize or make such an appeal to the

"The time will come when special and personal interests will be affected by the attempted execution of the act, and those attempted execution of the act, and those interests will test its validity in the courts; but before that time comes the State will already have become invoived in vast obligations, by the issue of bonds and the making of contracts; and for these, however invalid they may be held to be, the credit and good name of the State will require that some provision be made. Great expense is being constantly incurred which will have been wasted if the act be held unconstitutions.

unconstitutional.

"It is respectfully submitted that immediate steps should be taken to secure in some appropriate form of action a judgment upon the validity of the act."

Attorney-General Mayer asked Mr. Root what form of action he would suggest should be taken to test the validity of the law

law.

"I would suggest," said Mr. Root, "that you allow to be brought in the name of the people of the State an action to enjoin the State Comptroller from issuing the bonds, or the State Superintendent of Public Works from awarding the contracts, or that the State Engineer and Surveyor give notice of some strip of land to be taken for the new canal, in which event the owner of the land could immediately bring suit."

It was colden in all the Atlantic coast States except Florida yesterday, and warmer in almost all other sections. At no point was a temperature of more than 4 degrees below zero reported, and

freezing weather still extended into the northern parts of the South Atlantic and Gulf States. A storm following in the wake of the high pres-Gulf coast, causing rain in the Gulf and South At-lantic States, snow in the middle and upper Missis-

becoming cloudy in the afternoon and warmer; wind light to fresh, shifting from porthwest to northeast; average humidity, 67 per cent.; baromed to read to sea level, at 8 A. M. 30.51;

The temperature yesterday, as recorded by the official thermometer, is shown in the annexed table; 9 A. M. 12° 20° 6 P. M. 1 12 M. 21° 24° 9 P. M. 1 3 P. M. 26° 24° 12 Mid.

The lowest temperature, 11°, at 7 A. M. WASHINGTON PORECAST FOR TO-DAT AND TO-MORROW. For eastern New York, eastern Pennsylvania, New Jorsey and Delaware, snow this morning, turning to rain, with higher temperature; rain to-morrow; increasing south winds.

to their chamber. There wasn't much applause. The Senders of the south winds and the House resumed legislative business.

For the District of Columbia and Maryland, snow turning to rain, with higher temperature to-day; air to-morrow; increasing southeast to south winds. For New England, snow to day, turning to rain in south portion; rising temperature; rain in south, snow in north, portion to morrow; variable winds,

ng brisk southeast. For western New York, rain to-day and warmer in east portion; snow and much colder to-morrow; fresh east shifting to northwest, winds,

THE ELECTORAL VOTE COUNTED

FORMAL DECLARATION MADE OF ROOSEVELT'S ELECTION,

And of the Election of Fairbanks as Vice-President-Applause and Handelapping When the Vote of Missouri Was Announced-Mrs. Roosevelt Joined.

WASHINGTON, Feb. 8 .- The time honored constitutional necessity of counting the lectoral vote for President and Vice-President and confirming the action of the electors of the several States was carried out by the two houses of Congress in joint session to-day. It was a somewhat tedious proceeding, but interesting for all that, particularly to the crowds in the galleries, who showed an intense eagerness to observe and hear everything that was done and said. This ceremony marked the concluding formality in the election of Theodore Roosevelt and Charles Warren Fairbanks.

One o'clock was the time set for the joint assembling of the two houses. Long before that hour the galleries of the House were filled with spectators, and hundreds of latecomers stood in the gallery corridors, hoping against hope that by some chance they might be admitted. daughters and women friends of many public men were there in force and showed by their gay attire that they regarded the eremony as a function of importance and Mrs. Roosevelt, the wife of the President, was there, and so were Mrs. William Sheffield Cowles, the President's sister; Miss Alice Roosevelt and Theodore Roosevelt, Jr. They sat in the front row chairs known as the President's pew. This is in the executive gallery, on the left hand, or Republican side of the House. Mrs. Fairbanks, the wife of the Vice-President-

elect, was present also. Just before 1 o'clock Speaker Cannon directed the suspension of the legislative session of the House and announced that the hour had arrived for canvassing the electoral vote. Almost immediately thereafter the doorkeeper of the House announced the Senate, and in marched the senators, headed by President pro tempore Frye and the Senate officers. Two clerks carried big mahogany boxes containing certificates of the votes cast by the State electoral colleges. In the throng of Senators, marching in double file, many looked for the tall form of Charles W. Fairbanks, but it was not there. Mr. Fairbanks modestly absented himself from a ceremony in which he would have been con-

All the Representatives remained standing while the Senators were entering. President Frye mounted the Speaker's rostrum and relieved Speaker Cannon of the gavel. Then, when the Senators had been seated in chairs placed to the right of the rostrum, President Frye rapped for order and announced that the joint as-sembly would come to order in accordance with the terms of the statute providing for

Mr. Frye proceeded to get down to busiess in short order. He said if there was no objection the reading of the formal portions of credentials would be omitted. Everybody who had seen this quadrennial scene enacted before breathed a sigh of relief, and of course nobody thought of insisting that the long-winded manuscripts

in the mahogany boxes which lay in front of Mr. Frye should be read in the fulness of their legal verbosity.

"If there is no objection," said the President pro tempore, as he unlocked one of the big boxes, "the Chair will now open the credentials from the State of Alabama and the tallars will count and make a list. and the tellers will count and make a list of the votes from that State." Senators Burrows of Michigan and Bailey of Texas, and Representatives Gaines of West Virginia and Russell of Texas were the tellers, and Mr. Frye told them to come

forward. able document handed to him by a clerk and said a few words in a low voice. The Mr. Root's final contention was that none of the defects in the act were cured by submission to the people because there was no constitutional authority for submitting to the people any part of the law except that which authorized the debt. specified the object, imposed the tax and provided for its collection. "This is a representative government and the people cannot be called upon to pass laws except under the expression of the content in an angle december handed to him by a clerk and said a few words in a low voice. The audience thought it was missing something worth hearing and set up a cry of "louder." What Mr. Burrows said was that the credentials of the State of Alabama and that its electoral vote was cast for Parker and Davis. Mr. Burrows gave the name of the former Chief Judge of the New York Court of Appeals as "Allen" B. Ne Parker and Davis. Mr. Burrows gave the name of the former Chief Judge of the New York Court of Appeals as "Allen" B. New York Court of Appeals as "Allen" B. Parker, but nobody sought to correct him. It was Senator Bailey's turn next. Guided by his Republican colleague's experience, he spoke out loud and sonorously, and the crowds on the floor and in the galleries had no difficulty in learning that Arkansas cast her electoral vote for the late candidates of the Democracy. Somebody applauded and a few others joined in, but that was all.

Down through the list of States the tellers plodded their way until Maryland was reached. President Frye said that if there was no objection he would open the credentials of that State. Then he paused.

was no objection he would open the cred-entials of that State. Then he paused. There were many people in the House who remembered that Representative Pearre had once said that when Maryland's vote was presented he would challenge it. Those among them who had forgotten or had never heard that Mr. Pearre had changed his mind expected of sensation or had never heard that Mr. Pearre had changed his mind, expected & sensation. They held their breath, during the pause that followed the President pro ten's announcement. But Mr. Pearre said nothing, and the teller whose turn it then was, called out that Maryland cast one vote for Roose-till and Existentian of Services. velt and Fairbanks and seven for Parker and Davis. That one vote got a good round of applause, but the seven that went to the

nocratic candidates were greeted vo-Then came Missouri. Handelapping was Then came Missouri. Handolapping was vigorous when the announcement was made that the electoral vote of this former rockbound stronghold of Democracy was given to the Republican standard bearers. Floor and gallery joined in the formal welcome of Missouri into the Republican column. Up in the "President's pew" Mrs. Roosevelt smilingly turned to Mrs. Cowles and said something. Mrs. Cowles nodded her head, and she and the President's wife brought their gloved hands smartly together and kept it up. Miss Roosevelt and her brother joined in. Everybody about them was applauding likewise. body about them was applauding likewise and from the Republican side of the floo the clatter continued at a great rate. The Republican Senators, who, with their party

Republican Senators, who, with their party opponents, were sitting on the Democratic side looked rather amazed at the proceeding. Some of the House members banged the tops of their desks. The most strenuous of these was Mr. Loudenslager of New Jersey. J. Adam Bede of Minnesota was so happy in his enthusiasm that he shouted with laughter.

It took forty-five minutes to finish the

A storm following in the wake of the high pressure area was moving northward from the west Guit coast, causing rain in the Guif and South Atlantic States, snow in the iniddle and upper Mississippi Vailey and the lower Missouri Vailey, and snow, sleet and rain in the Ohio Vailey and lower Lake regions.

There was also a low pressure area central over wyoming, causing snow in the middle and northern Rocky Mountain section.

In this city the day was fair in the morning, becoming cloudy in the afternoon and warmer:

"The announcement by the President True minutes to finish the canvass. Then the President pro tempore told the tellers to make "final ascertainment of the result." This required five minutes. Senator Burrows reported that of the 476 electoral votes cast Roosevelt and Fairbanks had received 336 and Parker and Davis 140. After some handelapping had subsided President Frye repeated the report of the tellers and added:

"The announcement by the President

"The announcement by the President the Senate shall be deemed a sufficient declaration of the persons elected Presi-dent and Vice-President of the United States, each for the term beginning March 4, 1905, and shall be entered, together with lists of the votes, on journals of the Senate and the House of Representatives. Gentlemen, the purpose for which the joint convention has been called having been accomplished, the presiding officer dissolves the joint convention. Senators will return the joint convention. Senators will return to their chamber."

Signed by the Governor.

ALBANY, Feb. 8 .- Gov. Higgins has signed Senator Davis's bill extending until Feb. 10, 1907, the time in which the Buffalo Southern Railway Company shall complete its road; also Mr. Rogers's bill appropriating \$5,000 for the expense of the legislative bill drafting bureau. EXPELLED FROM LEGISLATURE.

Illinois General Assembly Ousts Comerford, Who Brought Corruption Charges.

SPRINGFIELD, Ill., Feb. 8 .- At the close of the most dramatic session known to the Illinois General Assembly, Frank D. Comerford, Democratic member for the Second Senatorial district in Chicago, was expelled this afternoon from membership

in the House of Representatives. After the announcement of the vote Comerford retired from the House at the request of Speaker Shurtleff, and by direction of the Speaker Clerk Reeve struck

Comerford's expulsion was the result of the agitation caused by his charges of corruption in the Legislature. This s the first instance in which a Representative or Senator has been expelled from

Comerford's name from the roll of member-

membership. Defiant to the last, Comerford made a dramatic speech in his own defence.

AMEND ARBITRATION TREATIES. Senate Committee Changes Them, Despite the President's Protest.

WASHINGTON, Feb. 8 .- Action taken by the Senate Committee on Foreign Relations to-day is regarded by those who know the views of the Administration as the death knell of the arbitration treaties between the United States and most of the European countries. The committee amended the treaties in the face of knowledge that President Roosevelt would decline to renegotiate them if they were changed in any way, and there is no reason doubt that he will make good his word.

The committee's amendment was in the form of a mere change of one word, but the effect is far reaching and important. Article 2 of each treaty as submitted to the Senate provided that in every case of arbitration the United States and the other nation involved should before applying to the permanent arbitration court, con-clude a special agreement, "defining clearly the matter in dispute and the scope of the powers of the arbitrators, and fixing the periods for the formation of the arbitral tribunal and the several stages of the pro-

As amended by the committee the word treaty" is substituted for "committee the word As amended by the committee the word "treaty" is substituted for "agreement," the importance of the change lying in the fact that it makes it necessary for the Senate to pass upon every case presented for arbitration before it reaches the permanent court, with the privilege of refusing to permit the arbitration to proceed.

This amendment was a concession to Southern Senators, who contended that under the treaties as perguiated the claims.

under the treaties as negotiated the claims of foreign subjects who held unredeemed bonds issued by the States of the Southern Confederacy could be made the subject of arbitration with the United States. President Roosevelt told the committee in writing that the treaty was not capable of any such interpretation, and he gave assurances that during his term no claim against any State or group of States would

CHAMPION ARMY RIFLE SHOT. Corporal R. H. Southern Heads the List in the Department of the East.

WASHINGTON, Feb. 8 .- Corporal Rufus H. Southern of Company E, Fifth Infantry, stationed at Plattsburg barracks, N. Y., is the champion rifle shot of the Department of the East for the year 1904 and heads the list of 166 officers and enlisted men who qualified as expert marksmen and sharpshooters. Corporal Southern had an avershooters. Corporal Southern had an average of 79 per cent. for the year, with Capt. H. R. Hickok, Fifteenth Cavalry, at Fort Ethan Allen, next, with 78.3 per cent.; Corporal Roy W. Heard, Company K. Eighth Infantry, at Fort Niagara, third, with 75.8 per cent.; Private Joseph Eckert, Company H. First Infantry, at Fort Porter, N. Y., fourth, with 74.8 per cent. In small arms firing, out of an average strength of 4.448 officers and men 91.8 per cent. qualified, 32 being classified as expert.

cent. qualified, 32 being classified as expert riflemen, 153 as sharpshooters, 239 as marks-men, 690 as first class men, 1,062 as second class men and 1,930 as third class men.

First Infantry, Companies C and F, Eighth Infantry, and D and I, Ninth Infantry.

The highest average, 96.4 per cent., is held by the Porto Rican regiment, 521 out was qualifying, the third battalion of 540 men qualifying, the third battalion of the First Infantry being next, with 96.3

SENATE WILL CUT MONEY BILLS. No River and Harbor Bill, No Public Build-

ing Bill and No Big Naval Increase. WASHINGTON, Feb. 8.—The Senate Committee on Appropriations is preparing to set the brakes hard against the bills appropriating money from the Treasury. Members of it declare that Republicans must face the alternative of chopping down appropriations or meeting a deficit next year which may cause a revulsion of feeling against the party sufficiently powerful to change the complexion of the House of

Representatives.

"There will be no river and harbor bill, no public building bill and no big increase in the navy this year," announced a leading member of the Senate Committee on Appropriations to-day. "We have talked these matters over in the committee and it has been decided that the two appropriations to day harbors and public feetings and harbors and rubile." t has been decided that the two spirits into bills for rivers and harbors and public buildings must wait until the next Congress. It has practically been decided by the Committee on Naval Affairs to provide

for only one new battleship.
"There is already a deficit in the Treasury
for the present fiscal year of \$24,000,000.
Secretary Shaw estimated that on a basis Secretary Snaw estimated that on a basis of appropriations already made and necessarily to be made, and calculating the receipts for the fiscal year on a reasonable basis, the deficit will reach \$40,000,000 at the end of the fiscal year. We can't stand

POSTMASTER WILLCOX'S PLANS. He Asks for 44 Clerks and 48 Carriers and Four New Branch Offices.

WASHINGTON, Feb. 8.—Postmaster Willcox to-day laid before the postal authorities his recommendations for increased facilities for the New York Post Office. They include forty-four additional clerks and forty-six additional carriers for the main office and the establishment of four additional branch offices. A commission of postal inspectors will make an investigation of the need for

will make an investigation of the need for the new clerks and carriers and report to the Postmaster-General.

The four new stations Mr. Willcox recom-mends be established are one in Wall street, one at Times Square, one at 140th street and Eighth avenue, and one at West Farms. They cannot be established, however, with-

Iney cannot be established, however, without an allowance by Congress.

Mr. Willeox also had a talk with the Postmaster-General about the extension of the pneumatic tube service in New York.

He thinks that ultmately it will be desirable to connect all the sub-stations in the city with the main pest office by means of which the connection of the pest office and the pest office by the pest of by the with the main post office by means of pneu

After all that has been said and written about the

prevailing adulteration of whiskey, can you afford to delay trying John Jameson's famous old Irish Whiskey? Every word spoken in favor of Pure whiskey emphasizes its virtues.

WHERE'S STOLEN BOND CACHE?

SECRET SERVICE MEN WOULD LIKE TO SEE JIMMY HOPE.

ren Miller," but Are Curtous-Dr. Wilcoxen, Who Sought to Negotiate a Stolen Bond, Still Unable to Get Bail.

Dr. Lewis O. Wilcoxon, the promoter who was arrested on Tuesday on a charge of having conspired to dispose of a \$10,000 United States bond, which was among the securities stolen from the Manhattan Savings Institution twenty-six years ago, did not get out of the Tombs yesterday, being unable to raise \$10,000 bail. Wilcoxon's story is that he was the dupe of an acquaintance named Samuel Warren Miller, whose name as payee is forged on the bond and who signed the assignment or the back of the bond in the presence of President Moyer of the National Shoe and Leather Bank. Wilcoxon introduced "Miller" to Mr. Moyer, who had never seen Miller before and who describes him as a man about 68 years old, about 5 feet 8 inches tall, rather thin, with an iron gray intelligent advertising is becommustache

By what the Secret Service men say is only a coincidence Jimmy Hope, father of Johnny Hope, who did time for the bank burglary and who common report has had is the custodian of the stolen securities, is just about the age of the man described as Miller and fits the description except as to height. Hope is not over 5 feet 6. He is 68 years old and had a beard when he was last seen. The Secret Service men are known to be looking up Hope, but they say that they do not suspect him of being Miller.

According to Secret Service Agent Flynn this is the first of the stolen United States bonds that has turned up. The bond that Jack Cannon, one of the burglars, tried to negotiate in Philadelphia fifteen years ago, was a Yonkers city bond. What Agent Flynn and his men would like to get is the history of the wanderings of the bond just recovered.

Agent Flynn and a lot of his sleuths were around the Waldorf-Astoria on Tuesday night armed with a description of Miller. He didn't show up. George P. Sheldon, who is a business acquaintance of the doctor, called and was very much surprised when he learned where the doctor was.

when he learned where the doctor was.
Sheldon was assistant to Ferdinand Peck,
who was Commissioner-General to the
Paris Exposition. Sheldon was in charge
of the offices of the commission here. He
says that Wilcoxon also is a friend of Peck,
having met him in Chicago ten years ago.
Sheldon said yesterday that he had met the doctor thirty days ago, when he called to see him in connection with a deal in which Mr. Peck is said to be interested. This deal

Mr. Peck is said to be interested. This deal had to do with a railroad 300 miles long on Vancouver Island and about 1,000,000 acres of timber lands, in which he says Wilcoxon owns a controlling interest. Recently, Sheldon says, Wilcoxon had been working on a plan to finance this and had got a bank here to back him.

"The deal was just on the point of consummation," said Sheldon, "when the doctor was arrested. Dr. Wilcoxon's property is worth at least \$1,000,000, and when this thing goes through it will be worth several millions more. His trouble will affect things seriously and I hope that he will get out in order that the deal may go through. Mr. Peck knows Dr. Wilcoxon very well and has had business relations with him for years. What little I have seen of him has convinced me that he is a perfectly square man, and I do not believe for a minute that he has done anything wrong."

Mr. Sheldon said that he had inquired at

Sheldon said that he had inquired at the Waldorf and learned from a detective there that a man who said he was Miller had been around the hotel last week looking for Wilcoxon. The house detective when asked about this said he had never seen

Miller.

Wilcoxon has told Agent Flynn that he met his friend Miller on the Dawson trail in Alaska in 1901 and then didn't see him again until last Friday, when he got his card at the Waldorf, Miller came every day to see him after that until Monday, but the doctor didn't learn where he lived.

Dr. Wilcoxon said with tears in his eyes yesterday that he was innocent of any wrongdoing and that it was all a trick of wrongdoing and that it was all a trick of

"If I had any intimation that the bond was stolen do you think that I would have gone to President Moyer of the bank with it?" he asked.

Information was given to THE Sun two or three years ago to the effect that several hundred thousand dollars of the securities stolen from the Manhattan Savings Institution were then in the possession of a man who twenty-five years ago was regarded by the chiefs of detectives all over the world as the most daring bank burglar of world as the most daring bank burglar of bis time. This burglar, grown elderly and enfeebled by disease, was supposed to be in the last stages of consumption.

THE SUN's informant was a soldier of fortune of international reputation, and, after telling of what was supposed to be the last illness of the old cracksman, he said that if the possession of the long cancelled securities was of any importance to the Manhattan Savings Institution he would see that they were returned, and would also see that whatever the bank saw fit to give for their recovery, whether it was

give for their recovery, whether it was \$1 or \$1,000, was given to the family of the burglar for use, as was then supposed, to help defray the funeral expenses. But the burglar dien't die. The lesions in his lungs healed, and almost any fair day now he may be seen walking rather feebly along upper Broadway or sitting in a retired corner in one of two or three hotels along the Rialto. So far as is known, the securities which were stolen from the Manhetten Seyings Institution, and which Manhattan Savings Institution, and which were then in his possession, he still has. The officials of the bank, when they heard of the proposition to return them, declined it, saying that the cancelled bonds were absolutely of no value to them, and they

with anybody who admitted that he had participated in the robbery. R. B. ARMSTRONG'S SUCCESSOR. James B. Reynolds to Be Assistant Secre

declined to enter into any sort of a dicke

tary of the Treasury. WASHINGTON. Feb. 8.-The President will send to the Senate to-morrow the nominations of James B. Reynolds of Massachusetts to be Assistant Secretary of the Treasury. He will succeed Robert B. Armstrong of Iowa, who recently resigned to become the president of a New York insurance company, and will have charge of the administration of the customs law the administration of the customs law.

Mr. Reynolds was strongly recommended for the appointment by Senator Lodge. He is about 40 years old and was formerly He is about 40 years old and was formerly a newspaper correspondent in Washington. For several years he has been prominently identified with political affairs in Massachusetts and is now Secretary of the Republican State committee. He was a delegate to the Republican national convention at St. Louis in 1896 and was an active worker in the commitme of 1890 and 1891. in the campaigns of 1900 and 1904

Army and Aavy Orders.

WASHINGTON, Feb. 8 .- These army orders were Capt. Charles W. Farber, Eighth Cavalry, from Capt. Charles W. Farber, Elghth Cavalry, from recruiting duty to his troop.

The following changes in the medical department are ordered: First Lieut. Robert Smart, Assistant Surgeon, to Fort Myer, relieving Capt. James S. Wilson, Assistant Surgeon, ordered to Fort Oglethorpe, relieving First Lieut. William L. Little, Assistant Surgeon, ordered to Jackson Barracks; Contract Surgeon John M. Hewitt to the Philippine Islands.

Major Thomas Cruse, Quartermaster, of construction work at Jefferson Barracks, relieving Capt. Malvern Hill Barnum.

Capt. Earl C. Carnahan, Faymaster, to Atlanta, Ga.

These naval orders were issued: Lieut. A. C. Kavanagh, from Naval Academy These naval orders were issued:
Lieut. A. C. Kavanagh, from Naval Academy
to the Colorado.
Midshipmen C. M. Austin, to the Olympia; V.
Baker, to the Texas; B. H. Green, H. Burnham,
A. E. Reno, E. R. Morrison and A. J. James to the
Brooklyn, A. K. Atkins, H. A. Orr, A. W. Sears and
B. H. Steele to the Illinois.
Surgeon A. G. Runwell, to navy yard, New York,
for duty in naval hospital.
Passed Assistant Surgeon H. E. Odell, from nava
hospital, New York, to the Calvestor.

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M'MACKIN'S REPLY TO CHARGES He Denies the Accusations Made by the

Child Labor Committee. Commissioner of Labor John McMackin filed with Gov. Higgins yesterday afternoon his answer to the charges made to the Governor recently against his administration by Robert Hunter, chairman of the child labor committee. In opening his answer

the Labor Commissioner says: "It is a libel upon the State for Chairman Hunter to charge that 'child slavery' exists within the boundaries of New York It is impossible for such a condition to pre-vail, and furthermore it has not been established that it does exist. tablished that it does exist. The chairman of the committee overstates his case and deals largely in generalizations. Inasmuch as Mr. Hunter has seen fit to compare Illinois with New York we also shall contrast the conditions in the two States. That 'child slavery' is not prevalent here is shown by the reports of the Bureau of Factory Inspection."

The Commissioner then shows that in this State the proportion of children be-

this State the proportion of children between the ages of 14 and 16 years employed in factories in 1900 was 21 to each 1,000 operatives but in 1903 the ratio dropped to 20 per 1,000 workers; while in 1900 in Illinois the proportion of children of a similar age at work in factories was 30 per 1,000 operatives and in 1902 when the last operatives and in 1902, when the last printed report on factory inspection was issued in that State, there were 38 working children to every 1,000 factory employees. "In truth," the Commissioner says, "New York is freer from child labor than any other industrial State in the Union."

NATIONAL RED CROSS MEETS. Secretary Taft Elected President Under

the New Charter. WASHINGTON, Feb. 8 .- The first meeting of the American National Red Cross under | with an epileptic fit in the crowd and was its new charter was held to-day in the re- sent to the Hudson street hospital. ception room of the State Department. Extensive plans for reorganization were discussed and the following officers elected: Secretary of War W. H. Taft, president; Assistant Secretary of the Treasury C. H. Keep, treasurer; Assistant Attorney-General Louis

Pratt, counsellor, and Charles L. McGee, It is the plan of the organization to begin an active campaign in every State and Territory for the upbuilding of the Red Cross. Committees of twelve in each State are planned, as one of the incorporators who spoke at the meeting said, with

the hope that 5,000,000 members can be procured within a year.

A meeting of the central committee, a A meeting of the central committee, a body of eighteen of the incorporators, was held afterward and the following executive committee was chosen: Assistant Secretary of State Francis B. Loomis, Brig.-Gen. George W. Davis, U. S. A., Medical Director John C. Boyd, U. S. N., Chief of the Bureau of Corporations James R. Garfield, Hilary A. Herbert, former Secretary of the Navy, Miss Mabel Boardman of Washington and Surgeon-General Wyman of the Public Health Society.

One of the suggestions made at the meet-ing to-day was that central storehouses for Red Cross supplies be established in various parts of the country for use in emergencies. By-laws to govern the sociemergencies. By-lety were adopted.

SMITH WOOLEY DISMISSED.

The Assayer in Charge of the Assay Office in Boise, Idaho, Turned Out of Office. WASHINGTON, Feb. 8 .- Acting upon a report made by Secret Service officers, the President to-day ordered the dismissal from the service of H. Smith Wooley, assayer in charge of the United States Assay Office at Boise, Idaho. The statement given out at the Treasury Department, immediately after the dismissal was appropried. ately after the dismissal was announced involves both the assayer and his brother. Kenneth Wooley, who was formerly employed as a laborer in the assay office. Smith Wooley was formerly a Bishop in the Mormon Church. He is charged with issuing a warrant for \$55 pay for his brother for work he did not perform.

issuing a warrant for \$55 pay for his brother for work he did not perform.

H. Smith Wooley was appointed assayer about fourteen months ago after a bitter fight against him by Senator Dubois and the anti-Mormon element in Idaho and Utah. The President, however, decided to appoint him upon the recommendation of Senator Heyburn.

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LINE BLOCKED IN RUSH HOURS.

Car Jumps the Track on Brooklyn Elevated Road-Jam at the Bridge A car off the track on the Fulton street elevated railroad near the Brooklyn Borougl Hall about 6 o'clock last night delayed

travel out that line all the evening.

In rush hours the congestion of people at both ends of the Brooklyn Bridge on account of this accident gave the police a lot of work. Capt. Devanney, Sergt. Donahoe, two roundsmen and twenty-five policemen were on hand to preserve order in

Nineteenth street, Brooklyn, fainted, but refused medical aid. Ellis H. Levey of 1430 Madison avenue, Manhattan, was taken The gates were closed twice to keep the

Lucy O. Thayer, 20 years old, of 1009

crowds back. Every available inch of standing room on all the Bridge approaches at the Manhattan end was filled. The wrecking train after righting the derailed car started to push it to the yards in East New York. A few yards from the scene of the trouble the wrecking train attempted to switch to the outbound track

on a cross-over and in doing so knocked
the third rail out of plumb.

A train following completed the damage
by tearing up the third rail in sections
and dumping part of it into the street.

As a result the power was shut off and
the road was blocked for another hour.

A gang of repair men finally replaced the A gang of repair men finally replaced the torn up sections of the third rail.

WANTS PRATT EXPELLED.

W. Post Says the Senator Is Violating the Sherman Anti-Trust Law.

WASHINGTON, Feb. 8.-C. W. Post of Battle Creek, Mich., the author of the Post Check Currency bill, to-day presented to President protem. Frye a petition addressed to the Senate in the form of an affidavit charging Senator Thomas C. Platt of New charging Senator Thomas C. Platt of New York, as president of the United States Express Company, with violating the Sher-man Anti-Trust law, asking an opportunity to present proofs, to the end that Mr. Platt might be expelled from the Senate. The petition was backed by an affidavit by Clarence G. Dawson and Edward M. Dawson, Jr., setting forth that Senator

Dawson, Jr., setting forth that Senator Platt informed them that he was against the bill "because it conflicts with my express money order business."
Clarence G. Dawson is private secretary to the petitioner, Post.

DISMISSED FOR SMOKING?

Midshipman Emery Clayton Weller to Leave Annapolts.

Emery Clayton Weller is the son of George E. Weller, a lawyer, living at 154 Convent avenue. The latter said last night that his son had not been dismissed but had re-signed. Mr. Weller also said that he had

received word from his son last night that

his resignation had been accepted.



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